

## Title 18, Public Revenue

### **Sales and Use Tax Regulation 1602.5, Reporting Methods for Grocers**

#### **FINAL STATEMENT OF REASONS**

##### Overview/Non-Controlling Summary

#### **Update**

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Regulatory Action.

#### **Specific Purpose**

The purpose of the proposed amendments to California Code of Regulations, title 18, section 1602.5, *Reporting Methods for Grocers* is to eliminate the obsolete requirement that grocers get State Board of Equalization approval before using an electronic scanning method to determine the amount of their sales of exempt food products.

#### **Factual Basis**

Sales and Use Tax Regulation 1602.5 provides that in preparing sales and use tax returns, grocers may use any method of determining the amount of their sales of exempt food products which does not result in an overstatement of the exemption. Grocers are required to be prepared to demonstrate by records, which can be verified by audit, that the method used properly reflected their sales of exempt food products. The electronic scanning systems method is one of the prescribed methods grocers may use for reporting the tax.

At the time the regulation was updated in 1995, the use of scanners was a relatively new technology and there was a need to standardize and define what type of documentation was necessary to support reported taxable and nontaxable sales and verify the accuracy of the reporting system. Consequently, language was added to the regulation requiring grocers who were contemplating use of an electronic scanning system as a reporting method to notify the Board and submit a general outline of the proposed procedures for review and approval prior to using this reporting method.

Staff has now determined that the review and approval procedures are obsolete and proposes to amend Regulation 1602.5 by eliminating the requirement that grocers get Board approval before using an electronic scanning method to report the tax. Staff further recommends deleting the language urging grocers to seek Board approval prior to using the modified purchase ratio and the cost plus markup methods of reporting the tax.

#### **Local Mandate Determination**

The Board has determined that the proposed amendments do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendments and regulations will result in no direct or indirect cost or savings to any State agency, any costs to

local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

### **Response to Public Comment**

On October 1, 2008, the Board held a public hearing on the proposed amendments to Sales and Use Tax Regulation 1602.5, *Reporting Methods for Grocers*. There was no public comment received at the hearing or during the public comment period. The Board adopted the revised amendments on October 1, 2008.

### **Small Business Impact**

The State Board of Equalization has determined that the adoption of the amendments to Regulation 1602.5 will have no significant statewide adverse economic impact directly affecting small business. The adoption of the proposed amendments to the regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California. The amendments to the regulation as proposed will not be detrimental to California business in competing with businesses in other states. The proposed regulation may affect small business.

### **Cost Impact on Private Person or Businesses**

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### **Significant Effect on Housing Costs**

No significant effect.

### **Federal Regulations**

Regulation 1602.5 and the proposed changes have no comparable federal regulations.

### **Alternatives Considered**

By its motion, the Board determined no alternative to promulgating the regulation would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective as and less burdensome to affected private persons than the adopted regulation.

### **AUTHORITY**

Sections 7051 and 7051.5, Revenue and Taxation Code

### **REFERENCE**

Sections 6359 and 6373, Revenue and Taxation Code